

REMARKS

The Office Action has been reviewed, and the Examiner's comments carefully considered. Applicant respectfully requests reconsideration of the present application in view of the reasons that follow. Claims 2-5 and 18 are amended. Claim 23 is added. No claims are canceled. Claims 2-23 are pending in this application, and are submitted for reconsideration.

Interview Summary

An Interview Summary that was mailed out from the U.S. Patent and Trademark Office on November 24, 2008, sets forth the substance of a telephonic interview conducted between Examiner Karen Amores and Applicant's representative, Mr. Matthew J. Kremer (Reg. No. 58,671), on November 20, 2008. The statements made in the Interview Summary are correct.

Rejection of claims 2-13 and 16-21 based on Ozaki

Claims 2-13 and 16-21 are rejected under 35 U.S.C. 102(b) as being anticipated by JP 11-099906 ("Ozaki"). This rejection should be withdrawn because Ozaki fails to disclose, teach, or suggest the claimed invention.

For example, claim 2 (as amended) recites, among other things, a hinge having at least one hinge carrier arranged on the vehicle body, at least one hinge arm arranged on the hood, and at least one connecting part for a pivotable connection of the at least one hinge arm to the at least one hinge carrier. The hinge is configured so that the pivotable connection of the at least one hinge arm to the at least one hinge carrier is released in an event of an accident by removal and/or destruction of the at least one connecting part due to forces acting in an axial direction of a pivot axis of the hinge. Ozaki does not teach or suggest this combination of features. For instance, Ozaki does not teach or suggest a hinge configured so that the pivotable connection of the at least one hinge arm to the at least one hinge carrier is released in an event of an accident by removal and/or destruction of the at least one connecting part due to forces acting in an axial direction of a pivot axis of the hinge. One of ordinary skill in the art would understand that the axial direction of the pivot axis is along the longitudinal direction of the pivot axis, and not in the perpendicular radial direction.

Ozaki discloses a hinge mechanism that permits the rear portion of the hood to raise if a bumper sensor detects a collision with an obstacle. None of the disclosed hinge mechanisms of Ozaki involve the removal and/or destruction of a connecting part due to forces acting in an axial direction of a pivot axis. For example, Figs. 1-5 of Ozaki show a pin 5 of the hinge mechanism which is held in place by a spring 8 acting on a locking member 7. (Paragraph 0012 of the machine translation of Ozaki, attached as Exhibit A in the Reply filed on November 13, 2008.) Neither the pin 5 nor the locking member 7 of Fig. 1-5 of Ozaki is removed and/or destroyed by forces acting in an axial direction of a pivot axis, but the locking member 7 releases the pin 5 when the force of the actuator 19 acts on the hood in the vertical direction of the hood so as to overcome the spring force of the spring 8.

Figs. 9-16 of Ozaki show a pin 5 held in a notch 40b. The notch 40b may take any form shown in Fig. 13 of Ozaki. Neither the pin 5 nor the notch 40b is removed and/or destroyed by forces acting in an axial direction of the pivot axis, but the pin 5 may be removed from the notch or the notch is fractured due to the force of the actuator 19 acting on the hood in the vertical direction of the hood. (Paragraph 0016 of the machine translation of Ozaki.)

Figs. 17-18 of Ozaki show a pin 50 held in a notch 41b. Neither the pin 50 nor the notch 41b is removed and/or destroyed by forces acting in an axial direction of the pivot axis, but the pin 50 may be removed from the notch or the notch is fractured due to the force of the actuator 19b acting on the hood in the vertical direction of the hood. (Paragraph 0020 of the machine translation of Ozaki.)

Because all the embodiments of Ozaki disclose a hinge configured so that the connection is released by removal and/or destruction of the at least one connecting part due to forces acting in a vertical direction of the hood, Ozaki does not teach or suggest a hinge configured so that the pivotable connection of the at least one hinge arm to the at least one hinge carrier is released in an event of an accident by removal and/or destruction of the at least one connecting part due to forces acting in an axial direction of a pivot axis of the hinge. Because Ozaki does not teach these features of claim 2, claim 2 is allowable over Ozaki.

Claim 3 (as amended) recites, among other things, a hinge comprising at least one hinge carrier arranged on the vehicle body, at least one hinge arm arranged on the hood, and at least one connecting part for a pivotable connection of the at least one hinge arm to the at

least one hinge carrier. The hinge is configured so that the pivotable connection of the at least one hinge arm to the at least one hinge carrier is released in an event of an accident by removal and/or destruction of the at least one connecting part. The at least one connecting part is a shear bolt designed to shear off by forces used to raise the engine hood in the event of an accident such that connection between the hinge arm and the hinge carrier is eliminated or an explosive bolt. Ozaki does not teach or suggest this combination of features. For instance, Ozaki does not teach or suggest the claimed shear bolt or the claimed explosive bolt. As to the claimed shear bolt, one of ordinary skill in the art would understand that, even though a bolt may shear if subject to a large enough force, not all bolts are designed to shear off by forces used to raise the engine hood in the event of an accident such that connection between the hinge arm and the hinge carrier is eliminated. There is nothing to teach or suggest that the mechanism in Ozaki includes such a designed shear bolt or an explosive bolt.

None of the disclosed hinge mechanisms of Ozaki involve a shear bolt designed to shear off by forces used to raise the engine hood in the event of an accident such that connection between the hinge arm and the hinge carrier is eliminated or an explosive bolt. For example, Figs. 1-5 of Ozaki show a pin 5 of the hinge mechanism which is held in place by a spring 8 acting on a locking member 7. (Paragraph 0012 of the machine translation of Ozaki.) The pin 5 of Fig. 1-5 of Ozaki does not explode or shear off by forces used to raise the engine hood in the event of an accident such that connection between the hinge arm and the hinge carrier is eliminated, but the locking member 7 releases the pin 5 when the force of the actuator 19 acts on the hood in the vertical direction so as to overcome the spring force of spring 8.

Figs. 9-16 of Ozaki show a pin 5 held in a notch 40b. The pin 5 does not explode or shear off by forces used to raise the engine hood in the event of an accident such that connection between the hinge arm and the hinge carrier is eliminated, but the pin 5 may be removed from the notch or the notch is fractured due to the force of the actuator 19 acting on the hood in the vertical direction. (Paragraph 0016 of the machine translation of Ozaki.)

Figs. 17-18 of Ozaki show a pin 50 held in a notch 41b. The pin 50 does not explode or shear off by forces used to raise the engine hood in the event of an accident such that connection between the hinge arm and the hinge carrier is eliminated, but the pin 50 may be

removed from the notch or the notch is fractured due to the force of the actuator 19b acting on the hood in the vertical direction. (Paragraph 0020 of the machine translation of Ozaki.)

Because all the embodiments of Ozaki disclose a pin that does not explode or shear off by forces used to raise the engine hood in the event of an accident such that connection between the hinge arm and the hinge carrier is eliminated, Ozaki does not teach or suggest all the features of claim 3. Thus, claim 3 is allowable over Ozaki.

Claim 18 (as amended) recites, among other things, an airbag configured to release a hood from the vehicle body using forces generated by the airbag that act in an axial direction of a pivot axis of the hinge when the airbag is deployed in a region of the hinge. As previously mentioned, one of ordinary skill in the art would understand that the axial direction of the pivot axis is along the longitudinal direction of the pivot axis, and not in the perpendicular radial direction. Ozaki does not teach or suggest such an airbag. For instance, the actuator 19 in Figs. 8 and 17 of Ozaki is configured to release a hood using forces generated in a vertical direction of the hood, not in a direction of a pivot axis of the hinge. Because Ozaki does not teach or suggest the airbag of claim 18, claim 18 is allowable over Ozaki.

Claims 4-13, 16-17, and 19-21 depend from and contain all the features of claim 2 or 18, and are allowable for the reasons above, without regard to the further patentable features contained therein.

For at least these reasons, reconsideration and withdrawal of the rejection are respectfully requested.

Rejection of claims 14-15 based on Ozaki and Sasaki

Claims 14-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ozaki in view of U.S. Patent 6,257,657 ("Sasaki"). Claims 14-15 depend from and contain all the features of claim 2. As previously mentioned, Ozaki does not teach or suggest a hinge configured so that the pivotable connection of the at least one hinge arm to the at least one hinge carrier is released in an event of an accident by removal and/or destruction of the at least one connecting part due to forces acting in an axial direction of a pivot axis of the hinge, as recited in claim 2. Sasaki does not cure the deficiencies of Ozaki. Therefore, claim 2 and

its dependent claims 14-15 are allowable over the combination of Ozaki and Sasaki. For at least these reasons, reconsideration and withdrawal of the rejection are respectfully requested.

Rejection of claim 22 based on Ozaki and Knight-Newbury

Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ozaki in view of WO 03/086826 ("Knight-Newbury"). Claim 22 depends from and contains all the features of claim 18. As previously mentioned, Ozaki does not teach or suggest the airbag of claim 18. Knight-Newbury does not cure the deficiencies of Ozaki for at least the reason that Knight-Newbury is not prior art.

It is respectfully submitted that the § 102(e) prior art date of Knight-Newbury corresponds to its international filing date of April 4, 2003. The present application claims priority to DE 102 52 285.5 (DE '285), which was filed on November 6, 2002. The claim of foreign priority for this application has been perfected by submission of the English translation of DE '285 filed on May 12, 2008. The perfected claim of foreign priority predates the § 102(e) prior art date of Knight-Newbury, thus removing Knight-Newbury as prior art against the present application. Because Knight-Newbury is not prior art, any rejection based on the teachings of Knight-Newbury is improper. Accordingly, the withdrawal of the rejection over Ozaki and Knight-Newbury is respectfully requested for at least this reason.

Allowability of claim 23

Claim 23 depends from and contains all the features of claim 3, and is allowable for the same reasons as claim 3, without regard to the further patentable features contained therein. For at least this reason, allowance of claim 23 is respectfully requested.

Conclusion


It is believed that the present application is now in condition for allowance. Favorable reconsideration of the application is respectfully requested.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing or a credit card payment form being unsigned, providing incorrect information resulting in a rejected credit card transaction, or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 19-0741.

Respectfully submitted,

Date 12/22/2008

By 

FOLEY & LARDNER LLP
Customer Number: 22428
Telephone: (202) 672-5582
Facsimile: (202) 672-5399

Howard N. Shipley
Registration No. 39,370

Matthew J. Kremer
Registration No. 58,671